

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1402 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 35-33-8-3.2, AS AMENDED BY P.L.1-2001,
- 4 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2003]: Sec. 3.2. (a) A court may admit a defendant to bail and
- 6 impose any of the following conditions to assure the defendant's
- 7 appearance at any stage of the legal proceedings, or, upon a showing
- 8 of clear and convincing evidence that the defendant poses a risk of
- 9 physical danger to another person or the community, to assure the
- 10 public's physical safety:
- 11 (1) Require the defendant to:
- 12 (A) execute a bail bond with sufficient solvent sureties;
- 13 (B) deposit cash or securities in an amount equal to the bail;
- 14 (C) execute a bond secured by real estate in the county, where
- 15 thirty-three hundredths (0.33) of the true tax value less
- 16 encumbrances is at least equal to the amount of the bail;
- 17 (D) post a real estate bond.
- 18 (2) Require the defendant to execute a bail bond by depositing
- 19 cash or securities with the clerk of the court in an amount not less
- 20 than ten percent (10%) of the bail. If the defendant is convicted,
- 21 the court may retain all or a part of the cash or securities to pay
- 22 fines, costs, fees, and restitution, if ordered by the court. A portion
- 23 of the deposit, not to exceed ten percent (10%) of the monetary
- 24 value of the deposit or fifty dollars (\$50), whichever is the lesser

amount, may be retained as an administrative fee. The clerk shall also retain from the deposit under this subdivision the following:

(A) Fines, costs, fees, and restitution as ordered by the court.

(B) Publicly paid costs of representation that shall be disposed of in accordance with subsection (b).

(C) In the event of the posting of a real estate bond, the bond shall be used only to insure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees, or restitution.

The individual posting bail for the defendant or the defendant admitted to bail under this subdivision must be notified by the sheriff, court, or clerk that the defendant's deposit may be forfeited under section 7 of this chapter or retained under subsection (b). **The defendant admitted to bail or an individual posting bail for the defendant may use a credit card, debit card, charge card, or similar method to make a cash deposit under this subdivision.**

(3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.

(4) Require the defendant to refrain from any direct or indirect contact with an individual.

(5) Place the defendant under the reasonable supervision of a probation officer or other appropriate public official.

(6) Release the defendant into the care of a qualified person or organization responsible for supervising the defendant and assisting the defendant in appearing in court. The supervisor shall maintain reasonable contact with the defendant in order to assist the defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.

(7) Release the defendant on personal recognizance unless:

(A) the state presents evidence relevant to a risk by the defendant:

(i) of nonappearance; or

(ii) to the physical safety of the public; and

(B) the court finds by a preponderance of the evidence that the risk exists.

(8) Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community.

(b) Within thirty (30) days after disposition of the charges against the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining under subsection (a)(2) to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental

1 public defender services fund established under IC 33-9-11.5.

2 (c) For purposes of subsection (b), "disposition" occurs when the
3 indictment or information is dismissed, or the defendant is acquitted or
4 convicted of the charges.

5 (d) With the approval of the clerk of the court, the county sheriff
6 may collect the bail posted under this section. The county sheriff shall
7 remit the bail to the clerk of the court by the following business day.

8 (e) When a court imposes a condition of bail described in subsection
9 (a)(4):

10 (1) the clerk of the court shall comply with IC 5-2-9; and

11 (2) the prosecuting attorney shall file a confidential form
12 prescribed or approved by the division of state court
13 administration with the clerk.".

14 Renumber all SECTIONS consecutively.

(Reference is to HB 1402 as printed February 7, 2003.)

Representative Kuzman